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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/539,392	03/31/2000	Stephen Smith	200-0061	9657

33198 7590 08/01/2003

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EXAMINER

WANG, LIANG CHE A

ART UNIT	PAPER NUMBER
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2155

DATE MAILED: 08/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/539,392

Applicant(s)

SMITH, STEPHEN

Examiner

Liang-che Alex Wang

Art Unit

2155

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 14 July 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: 1-44.

Claim(s) withdrawn from consideration: \_\_\_\_\_

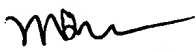
8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☒ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). 4.
10. ☒ Other: Interview Summary, Paper Number 10 is attached

Continuation of 5. does NOT place the application in condition for allowance because: the arguments presented in the request of reconsideration is similar as the subject matter discussed in the telephonic interview held on 7/14/2003, which no agreement was reached.

Applicant listed three arguments: 1. Joseph teaches away from certain limitation recites in claim 1. 2. Combination of Gignac with Joseph would render Joseph inoperable. 3 Examiner has not shown the required suggestion or motivation to combine the cited references.

They are not persuasive because: 1. It is clear in the previous action that Joseph does not teach some limitation in claim 1, however, Gignac does teach the limitations, and the Examiner does not agree Joseph teaches away from the recited claim, since Joseph teaches a system that sells sneakers is the same kind as the invention that sells cars. 2. as discussed during the interview, Gignac is the teaching reference that enhance the system of Joseph, so Joseph would have improved his invention by having the ability to track the sneakers when it is not in stock. 3. a motivation or suggestion is clearly given in previous office actions, on page 3 last paragraph, "a person with ordinary skill in the art would have been motivated to make the modification to Joseph because teachings of Gignac provides an inventory database for storing product availability data from a variety distribution chain nodes would enable merchants to provide users with comprehensive product availability data.

lw

  
HOSAIN T. ALAM  
PRIMARY EXAMINER